

1 Joseph R. Saveri (SBN 130064)
 2 *jsaveri@lchb.com*
 3 Eric B. Fastiff (SBN 182260)
 4 *efastiff@lchb.com*
 5 Brendan Glackin (SBN 199643)
 6 *bglackin@lchb.com*
 7 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
 8 Embarcadero Center West
 9 275 Battery Street, 30th Floor
 10 San Francisco, CA 94111-3339
 11 Telephone: (415) 956-1000
 12 Facsimile: (415) 956-1008

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 14 *Attorneys for Plaintiffs*
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 16 [Additional Counsel Listed on Signature Page]

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 (OAKLAND DIVISION)

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 2 MEIJER, INC. & MEIJER DISTRIBUTION,
 3 INC., on behalf of themselves and all others
 4 similarly situated,

5
 6 Plaintiffs,

7 v.

8 ABBOTT LABORATORIES,
 9
 10 Defendant.

Case No. C 07-5985 CW

**PRETRIAL ORDER NO. 1 REGARDING
 CONSOLIDATION AND
 MANAGEMENT**

11
 12 ROCHESTER DRUG CO-OPERATIVE,
 13 INC., on behalf of itself and all others
 14 similarly situated,

15 Plaintiff,

16 v.

17 ABBOTT LABORATORIES,
 18
 19 Defendant.

Case No. C 07-6010 CW

Hon. Claudia Wilken

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 27 --[caption continues on next page]—

1 LOUISIANA WHOLESALE DRUG
2 COMPANY, INC., on behalf of itself and all
3 others similarly situated,

4 Plaintiff,
v.

5 ABBOTT LABORATORIES,

6 Defendant.

7
8 Case No. C 07-6118 CW

9
10 **Hon. Claudia Wilken**

11
12 WHEREAS, Plaintiffs Rochester Drug Co-operative, Inc., Meijer, Inc., Meijer
13 Distribution, Inc., and Louisiana Wholesale Drug Co., Inc. (“Plaintiffs”) have filed complaints
14 (the “Direct Purchaser Class Complaints”) in the above-referenced actions for alleged violations
15 of the antitrust laws involving the brand name prescription drugs Norvir and Kaletra, pursuant to
16 Section 2 of the Sherman Act, 15 U.S.C. § 2;

17 WHEREAS, Plaintiffs seek to proceed on behalf of a proposed class of direct
18 purchasers of Norvir and/or Kaletra from defendant Abbott Laboratories (“Abbott”); and,

19 WHEREAS, consolidation of the Direct Purchaser Class Complaints and any
20 other future like actions will avoid unnecessary costs and promote the efficient conduct of
21 proceedings herein;

22 WHEREAS, Plaintiffs request entry of this Order, and Abbott does not oppose its
23 entry;

24 NOW, THEREFORE, THE COURT ORDERS:

25 **I. CONSOLIDATION**

26 1. This Order shall govern and control the procedure for the litigation of each
27 of the above-listed class actions, and all “tag along” class action cases—cases which assert or
28 purport to assert class action claims arising from or relating to the operative facts and allegations
29 contained in the Direct Purchaser Class Complaints—that are subsequently filed in or transferred
30 to this Court (collectively, the “Consolidated Direct Purchaser Class Action”). All such actions
31 are hereby consolidated for all purposes until further order, pursuant to Fed. R. Civ. P. 42(a).

1 2. The existing Consolidated Amended Complaint filed in *Meijer, Inc. &*
2 *Meijer Distribution, Inc. v. Abbott Laboratories, Inc.*, No. C 07-5985 CW (N.D. Cal.), shall
3 operate as the operative Consolidated Complaint. All papers hereafter filed in the Consolidated
4 Direct Purchaser Class Action shall bear the caption of the earliest-filed Direct Purchaser
5 Complaint, *Meijer, Inc. & Meijer Distribution, Inc. v. Abbott Laboratories, Inc.*, No. C 07-5985
6 CW (N.D. Cal.). The complaints in Civil Action Nos. 07-6010 & 07-6118 are dismissed without
7 prejudice.

8 3. Defendant Abbott Laboratories has already answered the Consolidated
9 Amended Complaint in the *Meijer* action.

10 4. The terms of this Order shall not have the effect of making any person,
11 firm, or corporation a party to any action in which he, she or it has not been properly named,
12 served, or joined, in accordance with the Federal Rules of Civil Procedure. The terms of this
13 Order and the consolidation ordered herein, and Abbott's agreement not to oppose the entry of
14 this Order, shall not constitute a waiver by any party of any claims in or defenses to any of the
15 actions, including defenses based on personal jurisdiction.

16 5. When an action that properly belongs as part of the Consolidated Direct
17 Purchaser Class Action (pursuant to paragraph I.1 of this Order) is hereinafter filed in this Court
18 or transferred to this Court, Plaintiffs' Co-Lead Counsel (*see* paragraph II.1 of this Order) shall
19 serve a file-endorsed copy of this Order upon attorneys for plaintiff(s) in the newly-filed or
20 transferred action, and upon the attorneys for any new defendant(s) in the newly-filed or
21 transferred cases, and file such notice and proof of service with this Court. Objections to
22 consolidation or application of the other terms of this Order to such cases shall be promptly filed,
23 with a copy served on counsel for Plaintiffs.

24 **II. ORGANIZATION OF COUNSEL**

25 1. The Court designates the following to act as Co-Lead Counsel on behalf of
26 all plaintiffs in the Consolidated Direct Purchaser Class Action, with the responsibilities
27 hereinafter described:

1 KAPLAN FOX & KILSHEIMER, LLP
2 Robert N. Kaplan
3 Linda P. Nussbaum
4 John D. Radice
5 805 Third Avenue
6 New York, NY 10022
7 Tel: 212.687.1980
8 Fax: 212.687.7714

9
10 BERGER & MONTAGUE, P.C.
11 Eric L. Cramer
12 Daniel C. Simons
13 1622 Locust Street
14 Philadelphia, PA 19103
15 Tel: (215) 875-3000
16 Fax: (215) 875-4604

17
18 GARWIN GERSTEIN & FISHER, LLP
19 Bruce E. Gerstein
20 Noah Silverman
21 1501 Broadway
22 New York, NY 10036
23 Tel: (212) 398-0055
24 Fax: (212) 764-6620

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26 2. Co-Lead Counsel, working together in a coordinated fashion, shall have
27 sole authority over the following matters on behalf of all plaintiffs in the Consolidated Direct
28 Purchaser Action: (a) convening meetings of plaintiffs' counsel; (b) initiation, response,
scheduling, briefing, and argument of all motions; (c) the scope, order, and conduct of all
discovery proceedings; (d) making such work assignments among themselves and other counsel
as they may deem appropriate; (e) collecting time and expense reports from all plaintiffs' counsel
on a periodic basis; (f) the retention of experts; (g) designation of which attorneys shall appear at
hearings and conferences with the Court; (h) the timing and substance of any settlement
negotiations with defendant(s); (i) the allocation of fees, if any are awarded by the Court; and
(j) other matters concerning the prosecution of the Consolidated Direct Purchaser Action.

29
30 3. In addition to Co-Lead Counsel, the Court designates the following to
31 serve on an Executive Committee, comprised of themselves and Co-Lead Counsel with the
32 responsibilities hereinafter described:

1 ODOM & DES ROCHES, LLP
2 John Gregory Odom
3 Stuart E. Des Roches
4 John Alden Meade
5 Suite 2020, Poydras Center
6 650 Poydras Street
7 New Orleans, LA 70130
8 Tel: (504) 522-0077
9 Fax: (504) 522-0078

10
11 THE SMITH FOOTE LAW FIRM, LLP
12 David P. Smith
13 W. Ross Foote
14 720 Murray Street
15 P.O. Box 1632
16 Alexandria, LA 71309
17 Tel: (318) 445-4480
18 Fax: (318) 487-1741

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21 4. The Executive Committee shall perform the functions of the litigation as
22 directed by Co-Lead Counsel.

23
24 5. The Court designates the following firms to act as Other Class Counsel,
25 which shall perform the functions of the litigation as directed by the Co-Lead Counsel and/or the
26 Executive Committee:

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28 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
1 Joseph R. Saveri
2 Eric B. Fastiff
3 Brendan Glackin
4 Embarcadero Center West
5 275 Battery Street, 30th Floor
6 San Francisco, CA 94111-3339
7 Telephone: (415) 956-1000
8 Facsimile: (415) 956-1008

9
10 SPIEGEL, LIAO & KAGAY
11 Charles M. Kagay
12 Wayne M. Liao
13 388 Market Street, Suite 900
14 San Francisco, California 94111
15 Telephone: (415) 956-5959
16 Facsimile: (415) 962-1431

1 KOZYAK TROPIN & THROCKMORTON
 2 Tucker Ronzetti
 3 Adam Moskowitz
 4 2800 Wachovia Financial Center
 5 200 South Biscayne Boulevard
 6 Miami, Florida 33131-2335
 7 Telephone: (305) 372-1800
 8 Telecopier: (305) 372-3508

9 AUBERTINE DRAPER ROSE, LLP
 10 Andrew E. Aubertine
 11 1211 SW Sixth Avenue
 12 Portland, Oregon 97204
 13 Telephone: (503) 221-4570
 14 Facsimile: (503) 221-4590

15 LAW OFFICES OF JOSHUA P. DAVIS
 16 Joshua P. Davis
 17 437A Valley Street
 18 San Francisco, CA 94131
 19 Telephone: (415) 422-6223

20 VANEK, VICKERS & MASINI, P.C.
 21 Joseph M. Vanek
 22 David P. Germaine
 23 111 S. Wacker Drive, Suite 4050
 24 Chicago, IL 60606
 25 Telephone: (312) 224-1500
 26 Facsimile: (312) 224-1510

27 SPERLING & SLATER
 28 Paul E. Slater
 29 55 West Monroe Street, Suite 3200
 30 Chicago, Illinois 60603
 31 Telephone: (312) 641-3200
 32 Facsimile: (312) 641-6492

33 6. No motion or other pleadings shall be initiated or filed on behalf of any
 34 Plaintiffs in the Consolidated Direct Purchaser Action except through Co-Lead Counsel or their
 35 designees.

36 7. Time Records: All Plaintiffs' counsel in the Consolidated Direct Purchaser
 37 Action shall keep contemporaneous time records and shall periodically submit summaries or
 38 other records and expenses to Co-Lead Counsel or their designees.

39 SO ORDERED, this 18th day of June, 2008:

40 

41 United States District Judge